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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,215	03/16/2001	Toshiaki Suzuki	HIRA.0012	5704
38327	7590	04/11/2006	EXAMINER	
REED SMITH LLP 3110 FAIRVIEW PARK DRIVE, SUITE 1400 FALLS CHURCH, VA 22042			WILSON, ROBERT W	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/809,215

Applicant(s)

SUZUKI ET AL.

Examiner

Robert W. Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 10 and 12-19 is/are allowed.
- 6) ☒ Claim(s) 11 is/are rejected.
- 7) ☒ Claim(s) 1-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/16/01, 9/28/05, & 12/9/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Objections

1. Claims 1-8 are objected to because of the following informalities: The examiner objects to the phrase "said control code data" in the limitation "in discarding packet data identified by the flow identifier and data upon congestion in the packet data transfer apparatus, performing discard initiation or termination based on said control code data" because "control code data" is inconsistent with the previous reference limitation to "control code identifier data". The examiner suggests changing the limitation to "said control code identifier data". Appropriate correction is required.

Allowable Subject Matter

2. Claims 9-10 & 12-17 are allowed.

The closest prior art is Fodor (U.S. Patent No.: 6,788,646). Fodor teaches a packet data transfer system for IP or ATM in which a flow identifier is created and this flow identifier is used to discard the first packet in the flow based upon the congestion. Fodor does not disclose having two fields in the packet ie a flow identifier and a control code data. Fodor only discloses only a single field which is a flow identifier which is used for determination of discarding nor does Foder teach an MPLS header.

The following is an Examiner's statement of reasons for allowance:

Claims 9-10 & 12-17 are considered allowable since when reading the claims in light of the specification, none of the references of record alone or in combination disclose or suggest the combination of limitations specified in the independent claims including: "discarding the packet

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data to be input to that buffer by layer based on said control code data and depending on said flow identifier data” as claimed in claim 9 & 10.

“flow identifier data for identifying said transmission data and control code data for controlling the discarding initiation or termination of said transmission data in the middle of transmission arranged in a label field in a MPLS packet header said transmission data and control code data for controlling the discard initiation or termination” as claimed in claim 12.

“adding into said data packets flow identifier data for identifying each layered data to be transmitted and control code data for initiating or terminating a discard operation” as claimed in claim 13.

“”said flow being distributed after created in such a manner that flow identifier data for identifying data for identifying each layered data in layered data consisting of a plurality of streams, a sequence number to be consecutively given to data partitioned by predetermined size, and control code data for initiating or terminating a discard operation” as claimed in claim 14, 15, 16 & 17.

3. Claims 18-19 are allowed.

The closest prior art is Bass (U.S. Patent No.: 6,977,928). Bass teaches a packet data multicasting or duplicating in which a flow identifier is created and this single flow identifier field is used to determine whether packets are duplicated. Bass does not disclose having two fields in the packet ie a flow identifier and a control code data.

The following is an Examiner's statement of reasons for allowance:

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Claims 18-19 are considered allowable since when reading the claims in light of the specification, none of the references of record alone or in combination disclose or suggest the combination of limitations specified in the independent claims including: "the packet identified is to be duplicated, performing duplication initiation and duplication termination on the packet data having said retained flow identified data based on said control code data" as claimed in claim 18-19.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fodor (U.S. Patent No.; 6,788,646)

Referring to claim 11, Fodor teaches: a data distribution scheme on an IP network (A CAC which accepts IP per col. 5 lines 48-col. 6 line 3) for distributing transmission data with flow identifier data for identifying and transmission data discard initiation or termination of said transmission data (flow identifier is added to the IP packet in order to determine discard initiation per col. 5 lines 48-col. 6 line 3). The plurality of IP packets are received by the CAC and the data packets have been converted from web page per col. 1 line 31 or audio visual or meaningful frames or slice of audio visual data. The discarding is initiated at the initial data packet per col. 5 lines 48-col. 6 line. Fodor does not expressly call for: control code which is in

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the middle of the transmission arranged in a DS (differentiated Service) field in the IP packet header. (The examiner wishes to point out that the applicant has not clearly stated that the discarding is performed based on the DS, just implied that this control field is present when the discarding decision is being done.)

Comer teaches: a TOS field in the middle of an IP packet for differentiated service which is a control code per Pg 99.

It would have been obvious to add the differentiated services of Comer to the IP packet of Foder in order to be standards compliant.

Response to Amendment

6. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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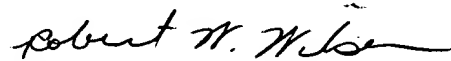
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

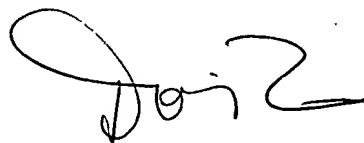
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571/272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert W Wilson
Examiner
Art Unit 2616

RWW
4/5/06



DORIS H. TO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600